



# HOUSE OF REPRESENTATIVES

HB 2552

delegation of powers; parent; custodian

Prime Sponsor: Representative Allen J, LD 15

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**X** Committee on Children and Family Affairs

Caucus and COW

House Engrossed

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## **OVERVIEW**

HB 2552 allows a parent or custodian to delegate to an attorney-in-fact, through a validly executed power of attorney (POA), powers regarding the care and custody of a child.

## **PROVISIONS**

1. Provides that if an investigation does not result in an out-of-home placement, DCS must provide information to the parent or guardian about community service programs that provide respite care, voluntary guardianship or other support services for families in crisis.
2. Updates the delegation of powers by a guardian (A.R.S. § 14-5104) to include only adults.
3. Adds a new Article in Title 14 for the Delegation of Parental or Custodial Authority.
4. Allows a parent or custodian to delegate to an attorney-in-fact any of the powers regarding the care and custody of the child, except the power to consent to marriage or the adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child, under a validly executed power of attorney. A delegation of powers under this section:
  - a. Does not modify any parental or legal rights, obligations or authority established by an existing court order or deprive the parent or custodian of any parental or legal rights, obligations or authority regarding the custody, visitation or support of the child; and
  - b. May not be effective for a period in excess of one year, except as provided.
5. Permits the parent or custodian of the child to revoke or withdraw the POA at any time. Except, the parent or custodian of the child must execute a new POA for each additional year that the parent or custodian wants to extend the delegation. If a parent or custodian revokes or withdraws the POA or the POA expires, the child must be returned to the custody of the parent or custodian as soon as reasonably possible.
6. States unless the POA is revoked, withdrawn or expires, the attorney-in-fact must exercise parental or legal authority on a continuous basis without compensation for the duration of the POA.
7. Stipulates that the execution of a POA by a parent or custodian does not constitute abandonment, abuse or neglect, unless the parent or custodian fails to take custody of the child or execute a new POA after the expiration of a POA.
8. Provides in the exercise of authority pursuant to a POA:
  - a. The attorney-in-fact is not subject to regulation or licensing as a child welfare agency or foster home; and

- b. A private, nonprofit organization that does not accept public monies and that assists parents with the process of delegating parental and legal custodial powers of their children, including assistance with identifying appropriate placements for their children, or that provides services and resources to support children, parents, legal guardians and persons designated as attorney-in-fact is not subject to regulation or licensing as a child welfare agency; and
  - c. Specifies that a child who is the subject to the POA is not in an out-of-home placement.
9. Asserts that a serving parent may execute a POA for a term longer than one year if the serving parent is on active duty service. The term of a POA executed for more than one year may not exceed the term of the active duty plus 30 days.
10. Outlines the form for the POA and provides that a POA is legally sufficient if the wording of the form complies substantially with the outlined form and the form is properly completed and the signatures of the parties are acknowledged.
11. Defines *attorney-in-fact*, *custodian*, *power of attorney* and *serving parent*.

**CURRENT LAW**

Not currently addressed in statute.